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February 23, 2024

Jarrett B. Perlow, Clerk of Court
U.S. Court of Appeals for the Federal Circuit
717 Madison Place, NW
Washington, DC 20439

Re: Nos. 24-1109 & 24-1144,
Honeywell International Inc., et al. v. OPTO Electronics Co., Ltd.

Dear Mr. Perlow:

Cross-Appellant OPTO Electronics Co. writes in response to the Court's January 17, 2024 order directing the parties, "[w]ithin 14 days from the date of the Fourth Circuit's ruling on Honeywell's motion to dismiss or transfer, ... to inform this court how they believe these appeals should proceed." Dkt. 18. By way of background, there are currently mirror-image appeals from the same underlying action pending in both courts. Honeywell contends that this Court has exclusive patent jurisdiction under 28 U.S.C. § 1295(a)(1). OPTO, by contrast, contends that the Fourth Circuit has jurisdiction under § 1291 because this breach-of-contract dispute does not implicate this Court's patent jurisdiction. OPTO thus filed a mirror-image motion to dismiss or transfer the appeals pending here to the Fourth Circuit. *See* OPTO Motion, Dkt. 12 (Nov. 24, 2023).

On February 20, 2024, the Fourth Circuit entered an order stating, "Upon consideration of the motions to dismiss these appeals or transfer them to the United States Court of Appeals for the Federal Circuit, the court defers action on the motions and directs the Clerk to resume the briefing schedule." Exhibit 1; *see also* Exhibit 2 (revised briefing schedule). Because the Fourth Circuit has not yet resolved Honeywell's jurisdictional motion, OPTO respectfully suggests that there is no good cause at this time to lift this Court's stay.

We would appreciate your circulating this letter to the appropriate panel at your earliest convenience.

Respectfully submitted,

/s/ Brian D. Schmalzbach

February 23, 2024

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*Counsel for Cross-Appellant
OPTO Electronics Co., Ltd.*

cc: Counsel of Record by ECF

CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2024, the foregoing was filed with the Clerk of the United States Court of Appeals for the Federal Circuit using the appellate CM/ECF system, which will also serve counsel of record.

/s/ Brian D. Schmalzbach
Brian D. Schmalzbach

Exhibit 1

FILED: February 20, 2024

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-1850
(3:21-cv-00506-KDB-DCK)

HONEYWELL INTERNATIONAL INC.; HAND HELD PRODUCTS, INC.;
METROLOGIC INSTRUMENTS, INC.,

Plaintiffs - Appellants,

v.

OPTO ELECTRONICS CO., LTD.,

Defendant - Appellee.

No. 23-2038
(3:21-cv-00506-KDB-DCK)

HONEYWELL INTERNATIONAL, INC.; HAND HELD PRODUCTS,
INCORPORATED; METROLOGIC INSTRUMENTS, INC.,

Plaintiffs - Appellees,

v.

OPTO ELECTRONICS CO., LTD.,

Defendant - Appellant.

O R D E R

Upon consideration of the motions to dismiss these appeals or transfer them to the United States Court of Appeals for the Federal Circuit, the court defers action on the motions and directs the Clerk to resume the briefing schedule.

For the Court

/s/ Nwamaka Anowi, Clerk

Exhibit 2

Filed: February 20, 2024

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

BRIEFING ORDER - CIVIL/AGENCY CROSS APPEAL

No. 23-1850 (L), Honeywell International, Inc. v. OPTO Electronics Co., Ltd.
3:21-cv-00506-KDB-DCK

Honeywell International, Inc. shall be considered the appellant for the purposes of this briefing schedule. Briefing shall proceed on the following schedule:

JOINT APPENDIX due: 04/01/2024

BRIEF [Opening] due: 04/01/2024

BRIEF [Opening/response] due: 04/30/2024

BRIEF [Response/reply] due: 05/30/2024

BRIEF [Reply] (if any) due: Within 21 days of service of response/reply brief.

The following rules apply under this schedule:

- Filings must conform to the [Fourth Circuit Brief & Appendix Requirements](#) as to content, format, and copies. The Requirements are available as a link from this order and at www.ca4.uscourts.gov. FRAP 28, 30 & 32.
- The joint appendix must be paginated using Bates page numbering and the JA or J.A. format required by the [Fourth Circuit Appendix Pagination & Brief Citation Guide](#). Appendix citations in the parties' briefs must use the same format. Local Rules 28(g) & 30(b)(4).
- All parties to a side must join in a single brief, even in consolidated cases,

unless the court has granted a motion for leave to file separate briefs. Local Rules 28(a) & 28(d).

- Motions for extension of time should be filed only in extraordinary circumstances upon a showing of good cause. Local Rule 31(c).
- If a brief is filed in advance of its due date, the filer may request a corresponding advancement of the due date for the next brief by filing a motion to amend the briefing schedule.
- If a brief is filed after its due date, the time for filing subsequent briefs will be extended by the number of days the brief was late.
- Failure to file an opening brief within the scheduled time may lead to dismissal of the case and imposition of sanctions against counsel. Local Rules 45 & 46(g).
- Failure to file a response brief may result in loss of the right to be heard at argument. FRAP 31(c).
- If a case has not been scheduled for a mediation conference, but counsel believes such a conference would be beneficial, counsel should contact the Office of the Circuit Mediator directly at 843-731-9099, and a mediation conference will be scheduled. In such a case, the reason for scheduling the conference will be kept confidential. Local Rule 33.
- The court may, on its own initiative and without prior notice, screen an appeal for decision on the parties' briefs without oral argument. Local Rule 34(a).
- If a case is to be scheduled for argument, counsel will receive prior notice from the court.

/s/ NWAMAKA ANOWI, CLERK
By: Tony Webb, Deputy Clerk